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Paper No. 7

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OFFICE OF PETITIONS

In re Application of
Bennett, et al.
Application No. 09/938,048
Filed: August 22, 2001
Attorney Docket No.: ISPH-0567
For: USE OF ANTISENSE
OLIGONUCLEOTIDE LIBRARIES FOR
IDENTIFYING GENE FUNCTION

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The above-identified application has been referred to the Office of Petitions for consideration of the paper titled "RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION." This paper is being treated as a petition to accord the above-identified application a filing date of August 23, 2001.

The application was filed August 23, 2001. A Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed on October 3, 2001. The Notice indicated an executed oath or declaration along with surcharge were required.

The Notice also indicated that figures 4a and 5 appeared to have been omitted from the application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 803), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawings, and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner argues that the application as filed included figures 1-6 as indicated on the return receipt postcard date stamped by the Office acknowledging receipt of six figures of drawings. Petitioner has included a copy of the postcard acknowledging receipt of figures 1-6 along with a copy of the missing figures.

The original figures 4a and 5 submitted with the application papers has not been located. However, in view of the evidence presented, the petition to include figures 4a and 5 in the application is **GRANTED**.

No fee is due in connection with this matter.

Application No. 09/938,048

Since the original figures 4a and 5 cannot be located in the Office, the copies supplied with the instant petition will be used for examination purposes.

This application will be forwarded to Office of Initial Patent Examination for further processing with a filing date of August 23, 2001.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

[Handwritten signature]
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy